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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,737	11/07/2000	Vittorio Castelli	YOR92000549US1	8221
21254	7590	10/05/2004	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			DESTA, ELIAS	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,737

Applicant(s)

CASTELLI ET AL.

Examiner

Elias Desta

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 22, 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/07/2000</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Drawing

1. The drawing is objected to because of the following minor informalities:
 - Figs. 11, 12 and 13: label horizontal and vertical axis.
 - Fig. 15: label members 1521, 1540, 1538, and 1524 as to function.

Corrections are required.

Specification

2. The specification is objected to because of the following minor informalities:
 - Page 9, line 11: delete the word “very”.

Claim rejection – 35 U.S.C. 112

3. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to show support and carry out the desired results of the preamble.

For instance, claims 1, 28 and 29 in the preamble state that they are drawn to “forecasting of computing resources” and yet never appear to accomplish such desired intended results. The claims are, therefore, incomplete and indefinite how such function is ever accomplished.

As to claims 2-27 (dependent claims), said claims are rejected to the extent that they inherit flaws of their parent claim 1.

Claim rejection – 35 U.S.C. 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-29 are rejected under 35 U.S.C. 101 because these claims are interpreted as a series of preprocessing instructions to an operator representing an abstract idea that lacks tangibility.

For instance, claims 1, 28 and 29 recite detecting spikes, jumps, removing spikes and jumps from observation without having a method clearly in the technological arts. Further, the preamble mentions it is “in a computer system”; the body of the claim does not refer back to that computer so it does not carry that much weight. As a result the method steps could be done on paper or even mentally. Hence, the steps taken to do the forecasting of computing resources is manipulation of abstract ideas without practical application.

As to claims 2-27 (dependent claims), said claims are rejected to the extent that they inherit flaws of their parent claim 1.

Conclusion

6. Citation of pertinent prior art:

- Kouri et al. (U.S. PAP 2004/0071363) teaches methods for padding, filtering, de-noising of digital data by adding unknown data sets.
- Wenreb (U.S. Patent 6,195,690) teaches network-based data acquisition system.
- Jain (U.S. Patent 6,259,677) teaches clock synchronization and dynamic jitter management for voice over IP and real-time data.
- Sanderford et al. (U.S. Patent 5,764,686) teaches enhanced time of arrival method for improving a radiolocation system.
- Pfeiffer et al. (U.S. Patent 5,960,097) teaches a computationally efficient missile detection and tracking system operating from focal plane assembly (FPA).
- Osorio et al. (U.S. Patent 6,549,804) teaches system for the prediction, rapid detection, warning, prevention or control of change in activity states in brain of a subject.
- Bose (U.S. Patent 4,438,519) teaches method and apparatus for transmitting high bit-rate digital data in power line communication media having high harmonic noise content.
- Lovett et al. (U.S. Patent 6,641,541) teaches method and apparatus for a morphology-preserving smoothing filter.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elias Desta whose telephone number is (571)-272-2214. The examiner can normally be reached on M-Thu (8:30-7:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-5841 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1782.

Elias Desta
Examiner
Art Unit 2857

-ed

September 27, 2004


DONALD E. McELHENY, JR.
PRIMARY EXAMINER